IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 185 OF 2006.

Trig Detectives Pvt.Ltd. ... Petitioner
Versus.
State of Maharashtra & ors. ... Respondents.

Shri Rajiv Morey i/by Shri R.S.Mishra for the Petitioner.

Shri P.M.Mokashi, A.G.P. for Respondents Nos.1, 4 & 5.

Ms.Lata Desai with Ms.Pallavi Desai for Respondents Nos.2 and 3.

CORAM : H.L.GOKHALE, &
ABHAY S. OKA, JJ.

DATED : 22nd FEBRUARY, 2006.

P.C.:

1. Heard Shri More in support of this petition.

Mrs.Desai appears for Respondents Nos.2 and 3 and Shri

Mokashi, A.G.P. appears for Respondents Nos.1, 4 and

5. This petition by the security company is to challenge the show cause notice issued by Respondent No.2-Board for non-payment of 3% levy on wages during the period February 1997 to March 2001. The amount comes to Rs.11,75,697/-. Shri More, learned Counsel appearing for the Petitioner submits that there are no reasons given in this order passed under section 14 of the Maharashtra Private Security Guards (Regulation of Employment and Welfare) Act, 1981. This order dated 18th August 2004 and the recovery notice dated 14th October 2004 are sought to be challenged on that basis.

Shri More draws our attention to the orders passed in similar matters wherein for want of reasons such orders have been interfered.

2. Mrs.Desai appearing for Respondents Nos.2 and 3 points out that the Petitioner was duly informed as to why this levy has been imposed. The Petitioner did not seek any particulars whatsoever. In any case these rules are the means of the Board for welfare purpose and the Petitioner-employer itself had assured by letter dated 19th March 2004 that if there is any payment left to be made, it will be paid in due course. The only defence taken was that the Petitioner was running short of funds.

3. We have noted the submissions of both the Counsel. Although there is much force in the submission of Mrs.Desai, the fact remains that in similar matters including Writ Petition No.2946 of 2004 in the case of Bombay Intelligence Security Ltd. v/s. State of Maharashtra, a Division Bench has set aside such orders for the absence of reasons. Shri More, the learned Counsel appearing for the Petitioner, submits that out of the demand of Rs.11,75,000 and odd, the Petitioner is willing to deposit 50% of the amount rounded to Rs.6,00,000/-. We direct that the amount of Rs.6,00,000/- be deposited within four weeks from today. In the circumstances, we restrain the Respondents from

acting upon the impugned order for a period of four weeks to enable the Petitioners to deposit this amount of Rs.6,00,000/- with the Board. In the event the amount is so deposited, the impugned order will stand quashed and set aside and the Board will afford hearing to the Petitioner and pass a reasoned order. In the event the amount is not so deposited, it will be open to the Board to proceed with the recovery under the impugned order. The payment will be subject to adjustment. Petition stands disposed of.

4. Shri More requests that the attachment on the Petitioner's Bank Account be lifted. Respondent No.5 Naib Tahsildar has filed an affidavit stating that an amount of Rs.66,841.40 ps. is lying in this Bank Account. The attachment will be lifted on the condition of the Petitioner paying Rs.60,000/- from this account to the Board and thereafter, the account will become operational.

5. The parties to act on an authenticated copy of this order.

(H.L.Gokhale, J.)

(Abhay S.Oka, J.)